

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
05-CA-290774	2/16/22

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Defenders of Wildlife	b. Tel. No. 800-385-9712
	c. Cell No.
	f. Fax No.
d. Address (Street, city, state, and ZIP code) 1130 17th Street, NW Washington, DC 20036	e. Employer Representative Jamie Rappaport Clark, President and Chief Executive Officer
	g. e-mail JCLARK@defenders.org
	h. Number of workers employed 106
i. Type of Establishment (factory, mine, wholesaler, etc.) national headquarters office and regional offices	j. Identify principal product or service non-profit membership organization
The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Since on or about (b) (6), (b) (7)(C) 2022, Employer, Defenders of Wildlife, by and through its supervisors and agents, has coerced, interfered with and discriminated against employees in the exercise of their rights under Section 7 of the Act, and refused to bargain in good-faith with OPEIU Local 2, through the following conduct: (a) refusing the request of a bargaining unit employee for Union representation during Employer investigation of alleged violation of Employer conduct standards; (b) refusing to provide notice and opportunity to bargain with Local 2 representatives over discretionary discipline issued to a bargaining unit employee, and (c) discriminating against a bargaining unit employee by issuance of discipline because such employee engaged in protected, concerted activity. It is requested that the Regional Director petition the U.S. District Court for a temporary injunction under Section 10(j) of the Act to enjoin such conduct.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Local 2, Office and Professional Employees International Union, AFL-CIO	
4a. Address (Street and number, city, state, and ZIP code) Rian Howard, Second Vice-President and Staff Representative OPEIU Local 2, AFL-CIO 8555 16th Street, Suite 550 Silver Spring, MD 20910	4b. Tel. No. (301) 608-8080
	4c. Cell No.
	4d. Fax No. (301) 608-2586
	4e. e-mail rhoward@opeiu-local2.org
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) Office and Professional Employees International Union, AFL-CIO	
6. DECLARATION	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
James F. Wallington, Attorney for Local 2	
(signature of representative or person making charge)	(Print/type name and title or office, if any)
1730 Rhode Island Ave NW Ste 406 Washington DC	
Address 20036	Date Feb 16, 2022
Tel. No. (202) 223-0723	
Office, if any, Cell No. (202) 258-3514	
Fax No. (202) 223-9677	
e-mail jwallington@bapwild.com	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 5
BANK OF AMERICA CENTER, TOWER II
100 S. CHARLES STREET, STE 600
BALTIMORE, MD 21201

Agency Website: www.nlr.gov
Telephone: (410)962-2822
Fax: (410)962-2198



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February 17, 2022

Andrea Milano, Esq.
Pillsbury Winthrop Shaw Pittman LLP
1200 Seventeenth Street, N.W., Suite 1400
Washington, DC 20036

Re: Defenders of Wildlife
Case 05-CA-290774

Dear Ms. Milano:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Oluwatosin Fadarey whose telephone number is (410) 962-2201. If this Board agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410) 962-2916.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board

agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Sean R. Marshall". The signature is fluid and cursive, with the first name "Sean" and last name "Marshall" clearly distinguishable.

Sean R. Marshall
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

cc: Ms. Jamie Rappaport Clark
President and CEO
Defenders of Wildlife
1130 17th Street, N.W.
Washington, DC 20036

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

DEFENDERS OF WILDLIFE

Charged Party

and

**OFFICE & PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION, LOCAL 2, AFL-CIO**

Charging Party

Case 05-CA-290774

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on February 17, 2022, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Ms. Jamie Rappaport Clark
President and CEO
Defenders of Wildlife
1130 17th Street, N.W.
Washington, DC 20036

Andrea Milano, Esq.
Pillsbury Winthrop Shaw Pittman LLP
1200 Seventeenth Street, N.W., Suite 1400
Washington, DC 20036

February 17, 2022

Date

Andrew Giannasi, Designated Agent of NLRB

Name

/s/ Andrew Giannasi

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 5
BANK OF AMERICA CENTER, TOWER II
100 S. CHARLES STREET, STE 600
BALTIMORE, MD 21201

Agency Website: www.nlr.gov
Telephone: (410)962-2822
Fax: (410)962-2198



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February 17, 2022

James F. Wallington, Esq.
Baptiste & Wilder, P.C.
1730 Rhode Island Avenue, N.W., Suite 406
Washington, DC 20036

Re: Defenders of Wildlife
Case 05-CA-290774

Dear Mr. Wallington:

The charge that you filed in this case on February 16, 2022 has been docketed as case number 05-CA-290774. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Oluwatosin Fadarey whose telephone number is (410) 962-2201. If this Board agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410) 962-2916.

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Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

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February 17, 2022

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sean R. Marshall". The signature is fluid and cursive, with the first name "Sean" and last name "Marshall" clearly distinguishable.

Sean R. Marshall
Regional Director

Enclosure: Copy of charge

cc: Ms. Rian Howard
Second Vice -President and Staff Representative
Office and Professional Employees
International Union, Local 2, AFL-CIO
8555 16th Street, Suite 550
Silver Spring, MD 20910-2840

(11-10) UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD FIRST AMENDED CHARGE AGAINST EMPLOYER		DO NOT WRITE IN THIS SPACE	
		Case 05-CA-290774	Date Filed 8/3/22
INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.			
1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer Defenders of Wildlife		b. Tel. No. (800) 385-9712	
		c. Cell No.	
d. Address (street, city, state, ZIP code) 1130 17th Street, NW Washington DC 20036		e. Employer Representative Jamie Rappaport Clark, President and Chief Executive Officer	
		f. Fax No.	
		g. e Mail jclark@defenders.org	
		h. Number of workers employed 100+	
i. Type of Establishment (factory, mine, wholesaler, etc.) Non-profit Membership Organization		j. Identify principal product or service Conservation Services/Advocacy	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) On or about (b) (6), (b) (7)(C) 2022, the Employer terminated the employment of (b) (6), (b) (7)(C) because of (b) (6), (b) (7)(C) activities on behalf of Office and Professional Employees International Union, Local 2.			
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Local 2, Office and Professional Employees International Union, AFL-CIO			
4a. Address (street and number, city, state, and ZIP code) Rian Howard, Second Vice-President and Staff Representative OPEIU Local 2, AFL-CIO 8555 16th Street, Suite 550 Silver Spring, MD 20910		4b. Tel. No. (301) 608 8080	
		4c. Cell No.	
		4d. Fax No. (301) 608-2586	
		4e. e Mail rhoward@opeiu-local2.org	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) Office and Professional Employees International Union, AFL-CIO			
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Tel. No. (202) 223-0723	
By		James F. Wallington, Esq	Cell No. (202) 258-3514
	(signature of representative or person making charge)	(Print/type name and title or office, if any)	Fax No. (202) 223 9677
	1730 Rhode Island Ave NW Ste 406 Washington DC 20036		e Mail jwallington@bapwild.com
	(Address)	(date)	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. §151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing First Amended Charge in Case 05-CA-290774 against Employer has been served this 3rd day of August, 2022 upon the counsel for the Employer by electronic mail, as follows:

Andrea R. Milano, Special Counsel
Email: andrea.milano@pillsburylaw.com
Pillsbury Winthrop Shaw Pittman LLP
1200 Seventeenth Street, NW
Washington, DC 20036

s/ James F. Wallington

James F. Wallington (D.C. Bar # 437309)
BAPTISTE & WILDER, P.C.
1730 Rhode Island Avenue, N.W., Suite 406
Washington, DC 20036
Telephone: 202.223.0723/Fax: 202.223.9677
Mobile: 202-258-3514
Email: jwallington@bapwild.com

Counsel for Charging Party OPEIU Local 2, AFL-CIO



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 5
BANK OF AMERICA CENTER, TOWER II
100 S. CHARLES STREET, STE 600
BALTIMORE, MD 21201

Agency Website: www.nlr.gov
Telephone: (410)962-2822
Fax: (410)962-2198



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August 12, 2022

Andrea Milano, Esq.
Pillsbury Winthrop Shaw Pittman LLP
Suite 1400
1200 Seventeenth Street, N.W.
Washington, DC 20036

Re: Defenders of Wildlife
Case 05-CA-290774

Dear Ms. Milano:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney Oluwatosin Fadarey whose telephone number is (410) 962-2201. If the agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410) 962-2916.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to

comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Sean R. Marshall". The signature is fluid and cursive, with the first name "Sean" and last name "Marshall" clearly distinguishable.

Sean R. Marshall
Regional Director

Enclosure: Copy of First Amended Charge

cc: Ms. Jamie Rappaport Clark
President and CEO
Defenders of Wildlife
1130 17th Street, N.W.
Washington, DC 20036

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

DEFENDERS OF WILDLIFE

Charged Party

and

**OFFICE, PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION (OPEIU) LOCAL 2**

Charging Party

Case 05-CA-290774

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on August 12, 2022, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

Ms. Jamie Rappaport Clark
President and CEO
Defenders of Wildlife
1130 17th Street, N.W.
Washington, DC 20036

Andrea Milano, Esq.
Pillsbury Winthrop Shaw Pittman LLP
Suite 1400
1200 Seventeenth Street, N.W.
Washington, DC 20036

August 12, 2022

Date

Jacqueline Denegal, Designated Agent of
NLRB

Name

/s/ Jacqueline Denegal

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 5
BANK OF AMERICA CENTER, TOWER II
100 S. CHARLES STREET, STE 600
BALTIMORE, MD 21201

Agency Website: www.nlr.gov
Telephone: (410)962-2822
Fax: (410)962-2198



Download
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August 12, 2022

James F. Wallington, Esq.
Baptiste & Wilder, P.C.
Suite 406
1730 Rhode Island Avenue, N.W.
Washington, DC 20036

Re: Defenders of Wildlife
Case 05-CA-290774

Dear Mr. Wallington:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Attorney Oluwatosin Fadarey whose telephone number is (410) 962-2201. If the agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410) 962-2916.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

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written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

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Very truly yours,

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Sean R. Marshall
Regional Director

Enclosure: Copy of First Amended Charge

cc: Ms. Rian Howard
Second Vice -President and
Staff Representative
Office and Professional Employees
International Union, Local 2, AFL-CIO
8555 16th Street, Suite 550
Silver Spring, MD 20910-2840

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

DEFENDERS OF WILDLIFE

and

Case 05-CA-290774

OFFICE AND PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION, LOCAL 2, AFL-CIO
A/W OFFICE AND PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION, AFL-CIO

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Local 2, Office and Professional Employees International Union, AFL-CIO a/w Office and Professional Employees International Union, AFL-CIO, herein correctly called Office and Professional Employees International Union, Local 2, AFL-CIO, a/w Office and Professional Employees International Union, AFL-CIO (the Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq. and Section 102.15 of the Board's Rules and Regulations, and alleges that Defenders of Wildlife (Respondent) has violated the Act as described below.

1. (a) The charge in this proceeding was filed by the Charging Party on February 16, 2022, and a copy was served on Respondent by U.S. mail on February 17, 2022.

(b) The first amended charge in this proceeding was filed by the Charging Party on August 3, 2022, and a copy was served by U.S. mail on August 11, 2022.

2. (a) At all material times, Respondent has been a nonprofit corporation with offices and places of business in Washington, D.C. and across the United States, and has been engaged in performing projects, soliciting and collecting funds from persons throughout the United

States, and social and political advocacy related to the protection and restoration of imperiled animal species and their habitats throughout the United States.

(b) During the 12-month period ending September 30, 2022, Respondent, in conducting its business operations described above in paragraph 2(a), has derived gross revenues in excess of \$250,000.

(c) During the period described in paragraph 2(b), Respondent purchased and received at its Washington, D.C. facility goods valued in excess of \$5,000 directly from points outside the District of Columbia.

(d) During the period described in paragraph 2(b), Respondent has conducted its business operations described above in paragraph 2(a) in Washington, D.C., and the Board asserts plenary jurisdiction over enterprises in Washington, D.C.

(e) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), (7) of the Act.

3. At all material times, the Charging Party has been a labor organization within the meaning of Section 2(5) of the Act.

4. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act, and agents of Respondent within the meaning of Section 2(13) of the Act.

(b) (6), (b) (7)(C)

[REDACTED]

-
-
-
-

(b) (6), (b) (7)(C)

[REDACTED]

(b) (6), (b) (7)(C)

-

(b) (6), (b) (7)(C)

-

-

5. (a) About (b) (6), (b) (7)(C) 2022, Respondent discharged its employee

(b) (6), (b) (7)(C)

(b) Respondent engaged in the conduct described above in paragraph 5(a) because the named employee joined and assisted the Charging Party and engaged in concerted activities, and to discourage employees from engaging in these activities.

6. By the conduct described above in paragraph 5, Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

7. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

As part of the remedy for the unfair labor practices alleged above, the General Counsel seeks an Order requiring that Respondent: (1) make (b) (6), (b) (7)(C) whole, including, but not limited to, reimbursement of direct and foreseeable consequential harm (b) (6), (b) (7)(C) incurred as a result of Respondent's unlawful conduct; and (2) reimburse (b) (6), (b) (7)(C) for all costs and expenses incurred in the investigation, preparation, and conduct of this case before the Board and the courts.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before November 3, 2022**. Respondent also must serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if

an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT at 10:00 a.m., on January 10, 2023, at 1015 Half Street SE, 3054 Jones-Laughlin Conference Room, Washington, DC 20570, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Baltimore, Maryland this 20th day of October 2022.

(SEAL)

/s/ *Sean R. Marshall*

Sean R. Marshall, Regional Director
National Labor Relations Board, Region 05
Bank of America Center, Tower II
100 S. Charles Street, Ste. 600
Baltimore, MD 21201

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 05-CA-290774

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Ms. Jamie Rappaport Clark
President and CEO
Defenders of Wildlife
1130 17th Street, N.W.
Washington, DC 20036
jclark@defenders.org

Jason M. Branciforte, Esq.
Emily Carapella, Esq.
Littler Mendelson, PC
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Washington, DC 20006
jbranciforte@littler.com
ecarapella@littler.com

Ms. Rian Howard
Second Vice -President and Staff Representative
Office and Professional Employees International
Union, Local 2, AFL-CIO a/w Office and
Professional Employees International Union,
AFL-CIO
8555 16th Street, Suite 550
Silver Spring, MD 20910-2840
rhoward@opeiu-local2.org

Mr. James F. Wallington, Esq.
Pitta LLP
1220 19th Street, N.W., Suite 600
Washington, DC 20036
jwallington@pittlaw.com

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlrb.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlrb.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility

of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Defenders of Wildlife
and
Baptiste & Wilder, P.C.

CASE 05-CA-290774

Defenders of Wildlife

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Defenders of Wildlife


IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Jason M. Branciforte	
MAILING ADDRESS: 815 Connecticut Avenue, NW, Suite 400	
Washington DC	
E-MAIL ADDRESS: jbranciforte@littler.com	
OFFICE TELEPHONE NUMBER: 2024146867	
CELL PHONE NUMBER: 7033957210	FAX: 2028420011
SIGNATURE: 	
DATE: ^(Please sign in ink) Monday, August 29, 2022 5:30 PM Eastern Standard Time	

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY. A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Defenders of Wildlife
and
Baptiste & Wilder, P.C.

CASE 05-CA-290774

Defenders of Wildlife

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Defenders of Wildlife

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

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(REPRESENTATIVE INFORMATION)

NAME: Emily M Carapella	
MAILING ADDRESS: 815 Connecticut Avenue, N.W., Suite 400	
Washington DC	
E-MAIL ADDRESS: ecarapella@littler.com	
OFFICE TELEPHONE NUMBER: 2027722501	
CELL PHONE NUMBER:	FAX:
SIGNATURE: Emily Carapella	
DATE: Tuesday, August 30, 2022 3:24 PM Eastern Standard Time	

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY. A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

DEFENDERS OF WILDLIFE,
Respondent,

and

Local 2, Office and Professional Employees
International Union, AFL-CIO,
Charging Party.

CASE 05-CA-287533
05-CA-290774

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Charging Party OPEIU Local 2, AFL-CIO

IN THE ABOVE-CAPTIONED MATTER.

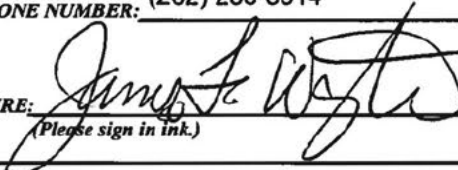
This Notice updates the law firm affiliation, email address, mailing address, and office telephone number for Charging Party legal representative James F. Wallington, effective as of September 1, 2022.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME:	James F. Wallington		
MAILING ADDRESS:	Pitta LLP, 1220 19th Street, NW, Suite 600, Washington, DC 20036		
E-MAIL ADDRESS:	jwallington@pittalaw.com		
OFFICE TELEPHONE NUMBER:	(202) 964-4753		
CELL PHONE NUMBER:	(202) 258-3514	FAX:	
SIGNATURE:			
DATE:	9/22/2022		

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

**BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5 – BALTIMORE, MARYLAND**

DEFENDERS OF WILDLIFE,
Respondent,

and

Case Nos. 05-CA-287533
05-CA-290774

LOCAL 2, OFFICE AND PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION, AFL-CIO,
Charging Party.

CERTIFICATE OF SERVICE

A true copy of an updated Notice of Appearance on behalf of James F. Wallington, as legal representative of Charging Party OPEIU Local 2, AFL-CIO, has been served upon counsel for Respondent in Cases 05-CA-287533 and 05-CA-290774 by electronic mail on September 22, 2022, as follows:

Littler Mendelson, P.C.
Jason M. Branciforte
Email: jbranciforte@littler.com
Emily J. Carapella
Email: ecarapella@littler.com
815 Connecticut Ave, NW Ste 400
Washington, DC 20006

s/ James F. Wallington

James F. Wallington
Partner

Pitta LLP

1220 19th Street NW, Suite 600
Washington, D.C. 20036
Email: jwallington@pittalaw.com
Office: (202) 964-4753
Mobile: (202) 258-3514
www.pittalaw.com

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

DEFENDERS OF WILDLIFE,

and

OFFICE AND PROFESSIONAL
EMPLOYEES INTERNATIONAL UNION,
LOCAL 2, AFL-CIO A/W OFFICE AND
PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION.

Case 5-CA-290774

RESPONDENT’S UNOPPOSED MOTION TO RESCHEDULE HEARING

Respondent Defenders of Wildlife (“Defenders”) respectfully files this Motion to Reschedule Hearing in the above-captioned matter.

1. On or about October 22, 2022, the Regional Director issued a Complaint in the above-captioned matter and scheduled a hearing to begin on January 10, 2023, and on consecutive days thereafter until concluded.

2. Jason Branciforte, Defenders’s trial counsel, has a long-scheduled hearing in California on January 11, which requires him to be in California from January 9 through January 13, 2023. This matter has been rescheduled previously and Mr. Branciforte is unable to move it.

3. Mr. Branciforte consulted with James Wallington, counsel for the Union, and requested that the Union agree that the hearing in this case be rescheduled for February 6-8, 2023. Mr. Wallington kindly consented to this request.

4. The requested rescheduled date is approximately three weeks after the current date, and the parties will not be prejudiced by this slight delay.

Accordingly, Respondent Defenders of Wildlife respectfully requests that the Regional Director grant this Motion and reschedule the hearing in this case for February 6-8, 2023.

Respectfully submitted,

LITTLER MENDELSON, P.C.

By: /s/ Jason M. Branciforte
Jason M. Branciforte
815 Connecticut Ave., NW
Suite 400
Washington, D.C. 20006
202.842.3400 (telephone)
jbranciforte@littler.com

Date: October 25, 2022

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of October, 2022, a copy of Respondent's Unopposed Motion to Reschedule Hearing was served on the following, by first-class U.S. mail and email:

James Wallington
Pitta LLP
1220 19th Street, NW
Suite 600
Washington, D.C. 20036
jwallington@pittalaw.com

/s/ Jason M. Branciforte
Jason M. Branciforte